IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF DECEMBER

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22053 of 2004

Between:

A. Sambasiva Rao, S/o Subbaiah,
R/o D.No. 6/328-1A, Sankarapuram, Kadapa.

..... PETITIONER

AND

1 The Chief Engineer, TL & SS, AP TRANSCO, Kadapa.
2 The Superintending Engineer, TLC Circle, Kadapa.
3 The Divisional Engineer, TRE & TLC, Kadapa.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of Mandamus declaring the order of the second and first respondents by issuing proceedings orders Memo No. SE.TLC/CDP/JAO.3/U2/F31/D.No. 700/03 dated 18-9-2003 and its consequential Memo No. CE/TL & SS/KDP/PO/ADM/ASST/FPF/D.No. 906/04 dated 31-5-2004 issued by the first respondent and directing the third respondent to recover the amounts on instalment basis for recovery of Rs. 2,15,684/- on instalment basis from the petitioner's salary is illegal, arbitrary as final orders were not passed and appeal is pending and also violates Article 14, 16 of the Constitution of India

Counsel for the Petitioner:MS.G.SUDHA

Counsel for the Respondent No.: MR.S.RAVINDRANATH

The Court made the following :

ORDER:

The petitioner is employed as Additional Assistant Engineer (Electrical) with the respondents, A.P. TRANSCO. Proceedings were initiated against him on the allegation that he is responsible for causing financial loss to the Government. After issuance of notice and conducting enquiry, the 1st respondent passed an order dated 31-5-2004, holding the petitioner liable to make good the loss assessed at Rs.1,18,320/-. The petitioner claims to have preferred an appeal before the appellate authority, namely, the Chairman and Managing Director. His grievance is that, even while the appeal is pending, recovery is being effected from the salary.

Heard the learned counsel for the petitioner and learned Standing Counsel for the respondents.

The petitioner had availed the statutory remedy of appeal against the order passed against him, by the 1st respondent. The provisions are not so clear, as regards the power of the appellate authority, to pass interim orders. However, by the very nature of the things, if the deduction is effected, from the salary of the petitioner, even while the appeal is pending, it would certainly cause hardship to the petitioner. It is not as if, he is likely to retire in the near future. The recovery can be deferred till the appellate authority disposes of the appeal.

Hence, the writ petition is disposed of, directing that no further recovery shall be effected from the salary of the petitioner, on the basis of the order dated 31-5-2004, passed by the 1st respondent, during the pendency of the appeal preferred by him. So far the amount, which is already recovered is concerned, the same shall be subject to the outcome of the appeal. The appellate authority shall endeavour to hear and dispose of the appeal as early as possible, and not later than two months from the date of receipt of a copy of this order. There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.01-12-2004

KO

To

1 The Chief Engineer, TL & SS, AP TRANSCO, Kadapa.
2 The Superintending Engineer, TLC Circle, Kadapa.
3 The Divisional Engineer, TRE & TLC, Kadapa.

4. Two C.D. copies.

5. The Chairman and Managing Director, A.P.TRANSCO, Hyderabad.